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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

SABBATH MATAAFA,

Defendant and Appellant.

E050284

(Super.Ct.No. RIF145614)

**OPINION**

APPEAL from the Superior Court of Riverside County. Eric G. Helgesen, Judge.  
(Retired judge of the Tulare Mun. Ct. assigned by the Chief Justice pursuant to art. VI,  
§ 6 of the Cal. Const.) Affirmed.

Lise M. Breakey, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

A jury found defendant and appellant Sabbath Mataafa guilty of assault with a  
deadly weapon, to wit, a bottle, by means likely to produce great bodily injury (Pen.  
Code, § 245, subd. (a)(1)) (count 1) and second degree robbery (Pen. Code, § 211) (count

2). The jury also found true that in the commission of count 1 defendant personally used a deadly weapon, to wit, a bottle, (Pen. Code, §§ 12022, subd. (b)(1) & 1192.7, subd. (c)(23)). Defendant was sentenced to a total term of four years in state prison and received a total of 72 days for time served. Defendant appeals from the judgment. We affirm.

## I

### FACTUAL BACKGROUND

On August 24, 2008, about 7:30 a.m., then 67-year-old Danny Johnson was in Hunt Park where he had been living when four or five young men got out of a red car with chrome rims and approached him. One of the men, later identified as defendant, had a dark blue bandanna covering his face.

The men approached Johnson, and defendant began taking his belongings and throwing them away. Defendant demanded that Johnson “[e]mpty” his pockets. Johnson responded that he was homeless and that he did not have any money. Defendant threatened to harm Johnson if he did not empty his pockets. Johnson pulled out approximately \$240 from one pocket, and defendant grabbed it.

Defendant then demanded that Johnson “[e]mpty” his “other pocket.” Johnson replied that he did not have any more money. After defendant grabbed a broom and broke it, Johnson fled. The men pursued him. One of the men grabbed Johnson’s coat, but Johnson slipped out of it and kept running until he heard someone yell, “Get in the car; let’s go.” The men got back in the red car and left. Johnson returned to the picnic

table and found a pouch of tobacco, a bottle of water, and a green Bic lighter missing from his belongings.

About 15 minutes later, Felipe Godoy was standing outside the entrance of a 99 Cent store located on Magnolia Avenue in Riverside. He was waiting for the store to open. Carr Treherne, Jr., was sitting in his car parked closed to the entrance also waiting for the store to open.

While Godoy was waiting for the store to open, a red Pontiac with chrome rims pulled up, and three or four young men got out. While the other men ran towards other stores, one of the men, identified as defendant, wearing a purple bandanna over his face, approached Godoy. Defendant told Godoy to give him his wallet. After Godoy refused, defendant punched and slapped him and then hit him over the head with a beer bottle. Defendant then threw the bottle at Godoy; however, Godoy ducked. At one point, the bandanna slipped off defendant's face.

The men fled in the red car when Treherne stepped out of his car and made a commotion.

At about 12:00 p.m. that same day, Riverside police conducted a traffic stop of a red Pontiac Grand Am with six people inside, including defendant. Police recovered a foil package of tobacco from the center console of the car and a green Bic lighter from the front right pocket of a passenger.

Godoy identified defendant as his attacker while the men were being detained. Godoy was unable to identify defendant as his assailant in court but identified a photograph of defendant taken at the time of his arrest. Johnson was unable to identify

defendant as the robber from a photographic lineup. A witness who saw the Hunt Park incident, however, identified defendant as the robber at an in-field identification later that same day.

The arresting officer observed that defendant's appearance in court was not the same as it was on the day of his arrest. At the time of the incidents, defendant had a "very large, Afro-style haircut . . . ." The suspect was identified as African-American. Defendant is Samoan. Johnson described the robber as a Black male, 5 feet 10 inches tall, weighing 200 to 220 pounds, with short curly hair, wearing a dark shirt with a blue bandanna over his face. The witness who saw the park incident described the robber as a Black male, six feet tall, weighing 220 250 pounds, with a large Afro-style haircut, wearing a black shirt with a bandana over his face. Godoy described his attacker as having a "big hairdo" and a purple bandanna over his face.

## II

### DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case, a summary of the facts, and potential arguable issues and requesting this court to conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we

independently reviewed the record for potential error. We have now completed our independent review of the record and find no arguable issues.

III

DISPOSITION

The judgment is affirmed.

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RICHLI  
Acting P.J.

We concur:

KING  
J.

MILLER  
J.